



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,995	08/01/2001	Hdei Nunoe	2000.023	5812

30636 7590 09/06/2006
FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

EXAMINER

ANYA, CHARLES E

ART UNIT PAPER NUMBER

2194

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,995

Applicant(s)

NUNOE, HDEI

Examiner

Charles E. Anya

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3/ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. Claims 1-7 are pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,175,916 B1 to Ginsberg et al. in view of U.S. Pat. No. 6,542,919 B1 to Wendorf et al.**

4. As to claim 1, Ginsberg teaches a method, comprising: when the current processing mode is a privileged processing mode, executing a direct program flow control instruction to directly access an instruction within software having the privileged processing mode ("...normal function call..." Col. 8 Ln. 6 – 50) and when the current processing mode is an unprivileged processing mode, executing an indirect program flow control instruction to cause execution of the instruction within software having the privileged processing mode (Memory Fault Handler 104 Col. 6 Ln. 59 – 67, Col. 7 Ln. 1 – 20).

Ginsberg is silent with respect with determining a current processing mode of an executing software function.

Wendorf teaches determining a current processing mode of an executing software function (figures 2/3 (Steps 203/303) Col. 7 Ln. 1 – 46)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wendorf and Ginsberg because the system of Wendorf would improve the system of Ginsberg by controlling access to system resources (Wendorf Col. 4 Ln. 24 – 29).

5. As to claim 2, Ginsberg teaches the method of claim 1, wherein the direct program flow control instruction is a jump instruction (“...jump instruction...” Col. 8 Ln. 11 – 17).

As to claim 3, Ginsberg teaches the method of claim 1, wherein the indirect program flow control instruction is an interrupt instruction (Memory Fault Handler 104 Col. 6 Ln. 59 – 67, Col. 7 Ln. 1 – 20).

6. As to claim 4, Ginsberg teaches the method of claim 1, wherein the software having; the privileged processing mode is operating system software (“...system function...”/“...system process...” Col. 6 Ln. 44 – 67, Col. 7 Ln. 49 – 60).

Art Unit: 2194

7. As to claim 5, Ginsberg teaches the method of claim 4, wherein the software having the privileged processing mode is kernel software ("...system function..." / "...system process..." Col. 6 Ln. 44 – 67, Col. 7 Ln. 49 – 60).

8. As to claims 6 and 7 see the rejection of claim 1 above.

Response to Arguments

Applicant's arguments filed 7/5/06 have been fully considered but they are not persuasive.

Applicant argues in substance that (1) the Ginsberg prior art does not include disclose relating to a state of the current processing mode because, at least in part, according to Examiner's admission the Ginsberg prior art is silent with reference to determining a current processing mode of an executing software function, and (2) the determination step of the Wendorf prior art is a determination of present or absence of a thread and not of determination of the current processing mode.

Examiner respectfully traverses Applicant's arguments:

As to point (1), the fact that the Examiner admits that the Ginsberg prior art is **silent** with respect to the determining step does not necessarily mean that it is not taught, at least implicitly. Examiner's admission is only saying that the Ginsberg prior art does not explicitly teach the determining step, hence the introduction of the Wendorf prior art.

As to point (2), firstly, the invention as claimed tests to determine the current processing mode of an executing software function, which means that the determination step is testing to see **where** the executing software function is executing in.

Let's look at figures 2 and 3 of the Wendorf prior art for a moment, specifically, steps 203/303, the test there is to determine if a thread is executing in a system domain. A system domain is a protected/privileged processing mode/domain and the thread is an executing software function. Therefore, steps 203/303 are tests to determine if an executing software function is executing in a protected/privileged processing mode/domain. Moreover, figures 2 and 3 (column 7 lines 1 – 29) explicitly indicate that the determination step is to determine if a current executing thread is in the protection domain of the operating system.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2194

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Anya whose telephone number is (571) 272-3757. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles E Anya
Examiner
Art Unit 2194

cea.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER